

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:06CV50-MU-1**

MOSES LEON FAISON,)	
)	
)	
Plaintiff,)	
Vs.)	ORDER
)	
OFFICER DEAL, <u>et al.</u> ,)	
)	
Defendants.)	
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THIS MATTER comes before the Court for initial review upon Plaintiff's Complaint pursuant to 42 U.S.C. § 1983, filed April 13, 2006.

Plaintiff alleges in his conclusory Complaint that "office {sic} Deal talked an inmate into cutting [him] . . . which caused [him] to get 40 stitches." Plaintiff lists Ms. Deal, a correctional officer, and Mr. Whitener, the assistant superintendent, as defendants.

As an initial matter, Plaintiff does not successfully allege any claims against Defendant Whitener, the assistant superintendent. That is, Plaintiff does not even mention Defendant Whitener anywhere in the text of his Complaint. He consequently has failed to allege any personal conduct by Defendant Whitener or assert that the others were acting pursuant to a policy or custom of Defendant Whitener and Defendant Whitener is dismissed from this case.

The Court notes that Plaintiff's Complaint is extremely conclusory, however out of an abundance of caution, the Court finds that Defendant Deal should file an answer detailing Plaintiff's allegations and responding to each.

IT IS, THEREFORE, ORDERED that:

1. The Clerk shall issue summons and deliver it forthwith to the U.S. Marshal who will make service of process without additional cost on Defendant Deal; and
2. Defendant Whitener is DISMISSED from this case.

Signed: April 19, 2006

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

